



CONTRACTING PERIOD –
April 1, 2000 – September 30, 2000

WIC VENDOR AGREEMENT

1. The Texas Department of Health, hereinafter called State, agrees to pay _____ (name of business) hereinafter called Vendor, with WIC Account # _____ (leave blank if new account) for all valid WIC food vouchers upon proper submission of the State of Texas Purchase Voucher to the State WIC Program within 60 days after receipt. WIC food vouchers may be deemed invalid for payment or, if paid, future payments may be offset for any of the following reasons:
 - a. Request for payment is postmarked 30 days or more after the "Last Date to Spend" noted on the face of the food voucher for which payment is requested.
 - b. Any signatures are missing, not matching, or if any signatures, dates of designation of valid period and/or quantities authorized appear to be forged or altered.
 - c. The food voucher is accepted before the "First Date to Spend" or after the "Last Date to Spend" printed on the food voucher.
 - d. Unauthorized foods or unauthorized brands and/or unauthorized quantities of foods have been issued.
 - e. The price of the food written by the Vendor on the food voucher exceeds the maximum price printed on the food voucher for the quantity authorized, or exceeds the Vendor's shelf price for the foods issued.
 - f. The food voucher includes dollar amounts for foods not received.
2. Vendor agrees to:
 - a. Prominently display the shelf prices of WIC authorized foods.
 - b. Issue only WIC authorized foods in authorized quantities to WIC participants upon presentation of a valid food voucher. A valid food voucher, in addition to foods and quantities, will state the "First Date to Spend", "Last Date to Spend", "Price Not To Exceed" amount, and will bear an authorized signature.
 - c. Issue foods only during the valid period printed on the WIC food voucher.
 - d. Enter the "Date Spent" on the food voucher as the day on which the food voucher was accepted in exchange for foods issued.
 - e. Enter the "Total Shelf Price" at the time of purchase for each type of authorized food/quantity issued in exchange for the food voucher at the customary selling price or at less than the customary price, but not at more than the maximum stated on the food voucher for that type of food/quantity. Sales tax shall not be collected on WIC food purchases.
 - f. Have the person receiving the foods sign the food voucher in the block designated "Countersign at Store". Verify that this countersignature agrees with the signature in the block designated "Authorized Signature".
 - g. Enter Vendor Account/Outlet store name and address on each food voucher submitted to the State.
 - h. Offer WIC participants the same courtesies and discounts as offered to other customers.
 - i. Declare, label, and issue the traditionally least expensive brand (LEB) of WIC approved milk and juice products. The State will provide labels to be placed on the shelf to identify the LEB WIC approved items.
 - j. Redeem WIC infant formula vouchers only for the designated formula prescribed on the food vouchers. Vendor's failure to comply will result in immediate disqualification.
 - k. Have a representative accept training on WIC procedures, inform and train cashiers and staff on program requirements, and ensure that all cashiers are trained in proper acceptance and processing of WIC food vouchers (items 2. a– j above).
 - l. Provide WIC approved food products at prices competitive with those charged by Vendors within the Local Agency service area as defined by State policy.
 - m. Not bill or attempt to collect from participants any charges from any food vouchers submitted to the State for reimbursement but not paid in whole or in part by the State.
 - n. Be accountable for actions of employees in the utilization of WIC food vouchers, purchase vouchers or provision of WIC authorized foods.
 - o. Indemnify and hold harmless the State as well as officers, agents, and employees of the State, from all claims, losses, or suits accruing or resulting from personal injury allegedly caused by a defect, and/or contamination of, and/or illegal tampering with foods purchased with WIC food vouchers.
 - p. Sell to WIC participants ENFAMIL® WITH IRON in 13 ounce concentrate, 16 ounce powder, and 32 ounce RTU containers and PROSOBEE® in 13 ounce concentrate, 14 ounce powder, and 32 ounce RTU containers at a percent of mark up equal to or less than the percent of mark up applied to SIMILAC WITH IRON® in 13 ounce concentrate, 14.1 ounce powder, and 32 ounce RTU containers and ISOMIL® in 13 ounce concentrate, 14 ounce powder, and 32 ounce RTU containers.
 - q. Submit State of Texas Purchase Voucher(s)/claims for reimbursement of WIC food vouchers in the manner prescribed by the State within the time limitation stated on each food voucher. Each store/outlet covered by this Agreement must submit separate purchase vouchers/claims. The Vendor is responsible for safe delivery of food vouchers to the State for payment.
 - r. Provide wholesaler/supplier purchase invoices within 60 calendar days of State request (as time is of the essence), detailing products, quantity and price for WIC items purchased as outlined in State policy. Vendor's failure to comply will result in immediate disqualification. Affidavits are not acceptable.
 - s. In compliance with the nondiscrimination requirements of the United States Department of Agriculture, assure that no WIC participant shall be excluded from participation in, or denied the benefits of, the WIC Program on the grounds of race, color, national origin, sex, disability, or age.
 - t. Abide by the Federal Regulations concerning the WIC Program, 7 CFR Part 246 including the Federal mandatory sanctions; the State Agency Policies and Procedures, including additional State Agency sanctions set forth in F.D. 30.0 and new or revised policies upon approval by the USDA and notice to the Vendor; the Vendor Profile; and the direct deposit requirements of the State Comptroller of Public Accounts. The foregoing documents and statement are incorporated in and made a part of this Agreement by reference.
 - u. Pay to the State, as damages:
 - (1) the full reimbursement received by the Vendor from the State for unauthorized foods, cash, or other items of value (not including authorized supplemental foods) provided to recipients in exchange for WIC food vouchers; and
 - (2) the full amount of the difference between the face amount of the food voucher and cost of the food provided when the Vendor provides less food than called for on and payable with the food voucher; and
 - (3) the full amount of the difference between the Vendor's customary price and the amount charged to the State when the Vendor charges the State more for supplemental foods than charged other customers for the same food items; and/or
 - (4) all other breaches of this Agreement which result in financial injury to the State; and
 - (5) reasonable costs incurred by the State in investigating and recovering damages described in items 2(u)(1)-(4) above.

3. Vendor acknowledges:

- a. If the Account/Outlet voluntarily withdraws from the WIC program as an alternative to WIC program disqualification, the State Agency will record the disqualification in the account /outlet compliance history.
- b. If the Account/Outlet voluntarily withdraws from the WIC program following a warning or notice of a violation, such withdrawal shall be deemed as an act of admission to the violation.
- c. Disqualification from the Food Stamp Program will result in an automatic disqualification of the same duration from the WIC Program. This disqualification cannot be appealed. A Vendor's disqualification from the WIC Program may result in disqualification as a retailer in the Food Stamp Program. Such disqualification may not be subject to administrative or judicial review under the Food Stamp Program.
- d. Neither the State nor the Vendor has an obligation to renew this Vendor Agreement. The State may allow a Vendor's Agreement to expire if the Vendor no longer meets Program qualification criteria, including, but not limited to, failure to charge prices competitive with those in the Local Agency service area and/or noncompliance under this or prior Vendor Agreement(s) with WIC Program Procedures, Policies, and/or Regulations. Expiration of the Vendor Agreement is not subject to appeal.
- e. The State Agency may disqualify the Vendor or impose a civil money penalty in lieu of disqualification for reasons of Program abuse and/or no longer meeting Program qualification criteria, including, but not limited to, failure to charge prices competitive with those in the Local Agency service area and/or noncompliance under this or prior Vendor Agreement(s) with WIC Program Procedures, Policies, and/or Regulations. The State Agency does not have to provide the Vendor with prior warning that violations were occurring before imposing such sanctions. Within 15 days of notification, the Vendor has the right to appeal a State Agency decision pertaining to disqualification, denial of application to participate, or other adverse action that affect participation during the contract or agreement performance period; except that, expiration of a contract or agreement with a vendor, disqualification of a vendor as a result of disqualification from the Food Stamp Program, and the State Agency's determination regarding participant access are not subject to review.
- f. The State, as well as officers, agents, and employees of the State are not responsible for losses incurred by the Vendor as a result of disqualification, denial of application to WIC program, and/or expiration of the Vendor Agreement.
- g. Committing fraud or abuse of the WIC program may subject the Vendor to prosecution under applicable federal, state or local laws.
- h. The State may monitor on-site the Vendor's compliance with WIC Policies. The Vendor shall, at the request of the reviewer, allow collection of shelf prices of WIC approved food items, and access to WIC food vouchers that have been negotiated.
- i. The State may deny an application to participate as a Vendor if any owner, partner, principal stockholder (15% or greater), officer, director, manager, or operator of the applicant was an owner, partner, principal stockholder (15% or greater), officer, director, manager or operator of another Vendor which has been disqualified or which has violated WIC Program Procedure, Policies or regulations
- j. Payment of franchise taxes is current or, if the Vendor is exempt from payment of franchise taxes, that the Vendor is not subject to the State of Texas franchise tax. A false statement regarding franchise tax status shall be treated as a material breach of this Agreement and may be grounds for termination at the option of the State. If franchise tax payments become delinquent during the Agreement term, payments under this Agreement will be held until the Vendor's delinquent franchise tax is paid in full.
- k. That he is eligible for participation in federal or state assistance programs under Executive Order 12549, Debarment and Suspension. Vendor specifically asserts that it does not owe a single substantial debt or a number of outstanding debts to a federal or state agency. A false statement regarding Vendor's status will be treated as a material breach of this contract and may be grounds for termination at the option of the State.
- l. Using funds granted under this contract for lobbying Congress or any agency in connection with a particular contract is prohibited. In addition, if at any time, the contract exceeds \$100,000, the law requires certification that none of the funds provided by the State to the Vendor have been used for payment to lobbyists. Regardless of funding source, and if a contract exceeds \$100,000, disclosure form must be completed if Vendor has any agreement with a lobbyist. This certification and/or form is available upon request and must be forwarded to the State within 90 days of receipt.
- m. Under Family Code §231.006, a child support obligor who is more than 30 days delinquent in paying child support or a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments under this Agreement. Under Family Code §231.006, the Vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. Vendor agrees to execute the Texas Department of Health Child Support Affidavit, and to provide the name and social security number of the individual or sole proprietor submitting the bid or application or each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the application.
- n. No conflict of interest with the State and/or local WIC Agency exists as a result of the execution of this Agreement.
- o. In the event the State pilots a WIC Smartcard food benefit system, and the Vendor elects to participate, the Vendor agrees to receive training on the system and operate the system in accordance with procedures to be published the Smartcard Retail System Manual
- p. Any disqualification levied by the State against the Vendor during the term of this Agreement for failure to adhere to program policies and/or contract stipulations may overlap into a subsequent Agreement period.
- q. The dispute resolution process provided in Chapter 2260 of the Texas Government Code must be used by TDH and the Vendor to attempt to resolve all disputes arising under this Agreement.

The Vendor must initial items listed - acknowledging receipt and review.

_____ WIC Policy FD:10.0	_____ WIC Policy FD:11.2	_____ WIC Policy GA:05.0	_____ Cashier Training Manual
_____ WIC Policy FD:10.1	_____ WIC Policy FD:16.0	_____ WIC Policy MON:02.0	_____ WIC Allowable Foods List
_____ WIC Policy FD:11.0	_____ WIC Policy FD:30.0	_____ WIC Vendor Guide – Payment of	_____ WIC Food Vouchers

This WIC Vendor Agreement shall commence on the _____, and shall be valid through the **30th day of September 2000**, except that either party shall have the right to terminate this Agreement after providing not less than 15 days prior written notice, provided that this paragraph shall be in conformity with the final regulations of the FNS USDA. Vendor shall notify the State Agency upon cessation of operations, change of ownership, or the sale, or transfer of ownership interest, any of which terminates this Agreement and renders it null and void. This Agreement is not transferable. The Vendor Agreement does not constitute a license or a property interest.

SIGNATURE OF VENDOR OWNER OR AUTHORIZED AGENT

DATE

SIGNATURE OF WIC OFFICIAL

DATE